

From: [Gordon, Lisa Perras](#)
To: [Zapata, Cesar](#)
Cc: [Allenbach, Becky](#); [Able, Tony](#); [Bouma, Stacey](#); [Baker, Frank](#); [Pohnan, Joseph](#); [Hopkins, Marion](#)
Subject: Update: Petition regarding SC Water Withdrawal Act
Date: Tuesday, October 30, 2018 4:27:13 PM
Attachments: [SC 1 SaludaRiverCategory4CSubmission08.31.2017.pdf](#)
[SC 3 UpperReedyRiver4CSubmissionPacket.pdf](#)

Cesar,

As requested today, I am including a small update on an issue related to the SC WW Petition as you head into the meeting with SC tomorrow from the original below.

In 2017, EPA facilitated meetings of the Petitioner (American Rivers) with DHEC to discuss hydrologically altered waters, both from water withdrawals as it relates to the Petition and other causes as well. In accordance with EPA's 2016 IR guidance, States should identify waters impaired for flow in the 305(b) report under Category 4C. Petitioners asked if they could provide examples of impaired waters to the State. The state said they would review and consider any submissions. Petitioners submitted requests to consider impairments on the South Fork of the Edisto, the Upper Reedy River, the Saluda, the Santee and the Broad River. Examples are attached.

We encouraged the state, consistent with EPA guidance, to accurately identify waters that are impaired. The state has not put out the public notice on the Report. The Petitioner called last week to ask if we've heard that the state may be coming out with their decision. Petitioners indicated they will be following it closely and have asked to discuss EPA's role in the review of the Report once it comes out. We will encourage Petitioners to submit comments during the public comment period. We would like to continue to encourage the state to accurately identify hydrologically altered waters.

Lisa

From: Gordon, Lisa Perras
Sent: Wednesday, September 26, 2018 5:38 PM
To: Bouma, Stacey <Bouma.Stacey@epa.gov>
Subject: FW: Petition regarding SC Water Withdrawal Act

If it's okay with you...will occasionally forward some of my responses to JG's request for you to tuck in a folder for reference so you can see the kind of questions being asked. If you prefer I wait, just let me know.

From: Gordon, Lisa Perras
Sent: Wednesday, September 26, 2018 5:37 PM
To: Gettle, Jeaneanne <Gettle.Jeaneanne@epa.gov>; Wetherington, Michele <Wetherington.Michele@epa.gov>
Cc: Able, Tony <Able.Tony@epa.gov>; Bragan, Mary Jo <Bragan.Maryjo@epa.gov>
Subject: RE: Petition regarding SC Water Withdrawal Act

Jeaneanne,

- There is no progress on the issue. We have not been contacted by the Petitioners in a couple of months.
- Since the last briefing there are no updates from SCDHEC. They have not responded to us regarding the Petition.
- The Petitioners seem to still be working with the State but there has been no resolution.
- Newspaper coverage in May 2018 included, "[S.C. Supreme Court Strikes Down Edisto Potato Farm Water Challenge](#)". In a 3-2 ruling the Court found that the alleged violation of the public trust doctrine was not yet 'ripe' because harm had not yet occurred. Dissenting judge said "I find it difficult to imagine a claim better suited to the public importance exception than an alleged public trust violation."
- News coverage continued in August, 2018 [Neighbors want to stop mega-farms but they have powerful allies](#). Also a short You Tube video on this page.
- I've attached the updated Brief Sheet.

Lisa

From: Gettle, Jeaneanne

Sent: Wednesday, September 26, 2018 3:04 PM

To: Gordon, Lisa Perras <Gordon.Lisa-Perras@epa.gov>; Wetherington, Michele <Wetherington.Michele@epa.gov>

Cc: Able, Tony <Able.Tony@epa.gov>

Subject: Petition regarding SC Water Withdrawal Act

Lisa and Michele

Can you give me a short update on this issue? Are we making progress? Are the petitioners satisfied? Just a few bullets. Pls copy Mary Jo.

Thanks
jmg